



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,070	01/18/2006	Syoji Shirai	IPA010	3915
32628 7590 03/16/2010 KANESAKA BERNER AND PARTNERS LLP 1700 DIAGONAL RD SUITE 310 ALEXANDRIA, VA 22314-2848				
EXAMINER SUTTON, ANDREW W				
ART UNIT		PAPER NUMBER		
3765				
MAIL DATE		DELIVERY MODE		
03/16/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,070

Applicant(s)

SHIRAI ET AL.

Examiner

ANDREW W. SUTTON

Art Unit

3765

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-15, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-15, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/18/06 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 12/10/09 have been fully considered but they are not persuasive. The applicant argues that the visor h extends continuously to the top portion. The examiner disagrees as openings 1b provide a break from the visor portion and the top portion. Secondly, the claim provides no language that requires the visor and top portion being separated.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-15 and 19-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant amended the claim to include the hat body having a lower end "extending substantially horizontally." The examiner is unclear with what the applicant is trying to claim as Fig. 2 shows the eave portion at 15 extending substantially downwardly, not horizontally. The applicant also claims the top end of the visor "extending substantially horizontally" that is unclear to the examiner. Fig. 2 clearly shows the top portion extending substantially vertically, not horizontally.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

Art Unit: 3765

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-15 and 19 are rejected, as best understood, under 35 U.S.C. 103(a) as being unpatentable over Tanizawa (JP2001-003220) in view of Grilliot (US 5,090,054). Tanizawa teaches a hat body having a top portion H having a rear end 1, a front eave portion h extending from the top portion and having a lower end, a back portion 1 extending from the top portion H with the upper portion 1f of the back portion 1 being located inside the rear end of the top portion with a space between to form a hole 1e. Tanizawa further teaches a visor portion h having a front end outside the body and a top end, just below 1c location, that is inside the hat body with an upper surface extending toward the top end, the top end being laterally disposed away from the lower end and vertically above the lower end at 2a to form a vent hole. The device further includes the top and front eave portion having a smooth inner surface to allow air to smoothly pass from the front air hole to the rear. Tanizawa does not teach the upper surface of the visor (just below 1c) being curved. Grilliot teaches a helmet with a vent 40 and a curved inner surface at 4. It would have been obvious to one of ordinary skill in the art to modify the device of Tanizawa with that of Grilliot to provide a curved inner surface to provide a smooth passage for air to travel.

As to claim 12, the hat H has sides and at the lower end of the sides is an eave portion with the eave and the upper surface of the visor h forming an opening at 2b.

As to claim 13, the openings 1b are above the visor portion h vertically and below the eave portion 2a therefore meeting the claim limitation. The rest of the limitations are addressed above.

As to claims 14, the applicant states no criticality or unexpected results to the width of the hole being the same as the width of the visor. It would have been obvious to one of ordinary skill in the art to modify the hole of Tanizawa to provide it being the same width as the visor through routine experimentation.

As to claim 15, the air hole 2b has a width less than the visor h.

As to claim 19, the hat H and visor h are formed integrally as claimed.

Allowable Subject Matter

Claim 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3765

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW W. SUTTON whose telephone number is (571)272-6093. The examiner can normally be reached on Monday - Thursday 7:00 am -5:00 pm and Friday 7:00 am - 11:00 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary L. Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AWS
11 March 2010

/Shaun R Hurley/
Primary Examiner, Art Unit 3765